

ASSEMBLY BILL

No. 331

Introduced by Assembly Member Brownley

February 10, 2011

An act to amend Sections 17070.20, 17070.95, 17070.955, 17071.75, 17072.32, 17074.15, 17074.16, 17074.26, and 17076.10 of the Education Code, and to amend Section 15490 of the Government Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 331, as introduced, Brownley. The Leroy F. Greene School Facilities Act of 1998.

(1) Existing law, the California Constitution, prohibits the Legislature from creating a debt or liability that singly or in the aggregate with any previous debts or liabilities exceeds the sum of \$300,000, except by an act that (A) authorizes the debt for a single object or work specified in the act, (B) has been passed by a $\frac{2}{3}$ vote of all the Members elected to each house of the Legislature, (C) has been submitted to the people at a statewide general or primary election, and (D) has received a majority of all the votes cast for and against it at that election.

This bill would state the intent of the Legislature to enact legislation that would create the Kindergarten-University Public Education Facilities Bond Act of 2012, a state general obligation bond act that would provide funds to construct and modernize education facilities, to become operative only if approved by the voters at the next statewide general election, and to provide for the submission of the bond act to the voters at that election.

(2) The Leroy F. Greene School Facilities Act of 1998 (Greene Act) requires the State Allocation Board (board) to allocate to applicant

school districts prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition. Existing law requires the Director of General Services to administer the Greene Act and authorizes the board to appoint an assistant executive officer, employ additional staff members and secure office space and furnishings to support the assistant executive officer, and fix the salary and compensation of the assistant executive officer.

This bill instead would require the Director of General Services to administer the Greene Act at the direction of the board and pursuant to regulations adopted by the board and would authorize the board to appoint its legal counsel, employ additional staff members and secure office space and furnishings to support the legal counsel, and fix the salary and compensation of the legal counsel.

(3) Existing law, requires a school district, in consultation with the local career technical education advisory committee, to certify it has considered the need for vocational and career technical facilities to adequately meet its program needs and requires the committee to provide written confirmation that the need for vocational and career technical facilities is being adequately met within the district.

This bill would exempt elementary school construction and modernization projects from the requirements regarding the adequacy of vocational and career technical facilities described above.

(4) Existing law requires a school district that applies to receive funding for new construction to determine projected enrollment for the 5th year beyond the fiscal year in which the application is made and authorizes a school district to submit an enrollment projection for the 5th or 10th year beyond the fiscal year in which the application is made.

This bill would allow the school district to calculate projected enrollment for the 5th or 10th year beyond the fiscal year in which the application is made.

(5) Existing law requires the ongoing eligibility of a school district for new construction funding to be determined by making specified calculations, one of which is to add the number of pupils that may be adequately housed in the existing school building capacity of a school district to the number of pupils for whom facilities were provided from any state or local funding source after the existing school building capacity was determined.

This bill would revise the calculation described above by specifying that the 2nd addend is the number of pupils for whom permanent

facilities were provided from any state source or permanent facilities provided entirely from a local funding source after the existing school building capacity was determined.

(6) Existing law requires that funding for an approved new construction school facilities project be released equal to the amount of the local match when the school district certifies that it has entered into a binding contract for completion of the project. The same certification is required to be made in connection with the release of disbursements for modernization projects. If the school district receives an apportionment, but has not met the criteria to have funds released within a period established by the board, but not to exceed 18 months, the board is required to rescind the apportionment and deny the district's application.

This bill would require the school district instead to certify that it has entered into a binding contract for professional services or for construction, or both, in order to complete the approved project. The bill would no longer authorize the board to establish a period of less than 18 months within which a school district is allowed to meet the criteria to have funds released and would establish 18 months as that period. The board would be authorized, at its discretion, to extend the 18-month period.

(7) This bill would correct an erroneous cross-reference and make other technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation that would create the Kindergarten-University Public
3 Education Facilities Bond Act of 2012, to become operative only
4 if approved by the voters at the next statewide general election,
5 and to provide for the submission of the bond act to the voters at
6 that election. It is also the intent of the Legislature that the bond
7 act, if approved by the voters at that election would provide for
8 the issuance of ____ (\$____) of state general obligation bonds to
9 provide aid to school districts, county superintendents of schools,
10 county boards of education, the California Community Colleges,
11 the University of California, the Hastings College of the Law, and

1 the California State University to construct and modernize
2 education facilities.

3 SEC. 2. Section 17070.20 of the Education Code is amended
4 to read:

5 17070.20. The Director of General Services shall administer
6 this chapter *at the direction of the board and pursuant to*
7 *regulations adopted as specified in Section 17070.35* and shall
8 provide assistance to the board as it requires.

9 SEC. 3. Section 17070.95 of the Education Code is amended
10 to read:

11 17070.95. (a) As a part of its application for large construction
12 and modernization projects, a school district shall certify, in
13 consultation with the career technical education advisory committee
14 established pursuant to Section 8070, that it has considered the
15 need for vocational and career technical facilities to adequately
16 meet its program needs consistent with Section 51224, subdivision
17 (b) of Section 51225.3, and Section 52336.1. The board shall adopt
18 regulations necessary for administration of this section.

19 (b) *This section does not apply to elementary school construction*
20 *and modernization projects.*

21 SEC. 4. Section 17070.955 of the Education Code is amended
22 to read:

23 17070.955. (a) In conjunction with an application of a school
24 district for any construction or modernization project, and as a
25 condition of the district receiving funds for the project, the career
26 technical education advisory committee for the district shall provide
27 written confirmation that the need for vocational and career
28 technical facilities is being adequately met within the district
29 consistent with Section 51224, subdivision (b) of Section 51225.3,
30 subdivision (b) of Section 51228, and Section 52336.1.

31 (b) *This section does not apply to elementary school construction*
32 *and modernization projects.*

33 SEC. 5. Section 17071.75 of the Education Code is amended
34 to read:

35 17071.75. After a one-time initial report of existing school
36 building capacity has been completed, the ongoing eligibility of a
37 school district for new construction funding shall be determined
38 by making all of the following calculations:

1 (a) A school district that applies to receive funding for new
2 construction shall use the following methods to determine projected
3 enrollment:

4 (1) A school district that has two or more schoolsites each with
5 a pupil population density that is greater than 115 pupils per acre
6 in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil
7 population density that is greater than 90 pupils per acre in grades
8 7 to 12, inclusive, as determined by the Superintendent using
9 enrollment data from the California Basic Educational Data System
10 for the 2004–05 school year, may submit an application for funding
11 for projects that will relieve overcrowded conditions. That school
12 district may also submit an alternative enrollment projection for
13 the fifth year beyond the fiscal year in which the application is
14 made using a methodology other than the cohort survival
15 enrollment projection method as defined by the board pursuant to
16 paragraph (2), to be reviewed by the Demographic Research Unit
17 of the Department of Finance, in consultation with the department
18 and the Office of Public School Construction. If the Office of
19 Public School Construction and the Demographic Research Unit
20 of the Department of Finance jointly determine that the alternative
21 enrollment projection provides a reasonable estimate of expected
22 enrollment demand, a recommendation shall be forwarded to the
23 board to approve or disapprove the application, in accordance with
24 all of the following:

25 (A) Total funding for new construction projects using this
26 method shall be limited to five hundred million dollars
27 (\$500,000,000), from the Kindergarten-University Public Education
28 Facilities Bond Act of 2004.

29 (B) The eligibility amount for proposed projects that relieve
30 overcrowding is the difference between the alternative enrollment
31 projection method for the year the application is submitted and the
32 cohort survival enrollment projection method, as defined by
33 paragraph (2), for the same year, adjusted by the existing pupil
34 capacity in excess of the projected enrollment according to the
35 cohort survival enrollment projection method.

36 (C) The Office of Public School Construction shall determine
37 whether each proposed project will relieve overcrowding,
38 including, but not limited to, the elimination of the use of Concept
39 6 calendars, four track year-round calendars, or busing in excess
40 of 40 minutes, and recommend approval to the board. The number

1 of unhoused pupil grants requested in the application for funding
2 from the eligibility determined pursuant to this paragraph shall be
3 limited to the number of seats necessary to relieve overcrowding,
4 including, but not limited to, the elimination of the use of Concept
5 6 calendars, four track year-round calendars, or busing in excess
6 of 40 minutes, less the number of unhoused pupil grants attributed
7 to that school as a source school in an approved application
8 pursuant to Section 17078.24.

9 (D) A school district shall use the same alternative enrollment
10 projection methodology for all applications submitted pursuant to
11 this paragraph and shall calculate those projections in accordance
12 with the same districtwide or high school attendance area used for
13 the enrollment projection made pursuant to paragraph (2).

14 (2) A school district shall calculate enrollment projections for
15 the fifth *or 10th* year beyond the fiscal year in which the application
16 is made. Projected enrollment shall be determined by utilizing the
17 cohort survival enrollment projection system, as defined and
18 approved by the board. The board may supplement the cohort
19 survival enrollment projection with any of the following:

20 (A) The number of unhoused pupils that are anticipated as a
21 result of dwelling units proposed pursuant to approved and valid
22 tentative subdivision maps.

23 (B) Modified weighting mechanisms, if the board determines
24 that they best represent the enrollment trends of the district.
25 Mechanisms pursuant to this subparagraph shall be developed and
26 applied in consultation with the Demographic Research Unit of
27 the Department of Finance.

28 (C) An adjustment to reflect the effects on kindergarten and
29 first grade enrollment of changes in birth rates within the school
30 district or high school attendance area boundaries.

31 (3) ~~(A)~~—A school district may submit an enrollment projection
32 for either a 5th year or a 10th year beyond the fiscal year in which
33 the application is made. A school district that bases its enrollment
34 projection calculation on a high school attendance area may use
35 pupil residence in that attendance area to calculate enrollment. A
36 school district that utilizes pupil residence shall do so for all high
37 school attendance areas within the district. A pupil shall not be
38 included in a high school attendance area enrollment projection
39 based on pupil residence unless that pupil was included in the
40 California Basic Educational Data System (CBEDS) report of the

1 district for the same enrollment year. The board may require a
2 district to provide a reconciliation of the districtwide CBEDS and
3 residency data. The board also may adopt regulations to specify
4 the format and certification requirements for a school district that
5 submits residency data.

6 (b) (1) Add the number of pupils that may be adequately housed
7 in the existing school building capacity of the applicant school
8 district as determined pursuant to Article 2 (commencing with
9 Section 17071.10) to the number of pupils for whom permanent
10 facilities were provided from any state *source* or *permanent*
11 *facilities provided entirely from a* local funding source after the
12 existing school building capacity was determined pursuant to
13 Article 2 (commencing with Section 17071.10). For this purpose,
14 the total number of pupils for whom facilities were provided shall
15 be determined using the pupil loading formula set forth in ~~Section~~
16 *Sections 17071.25 and 17071.30.*

17 (2) Subtract from the number of pupils calculated in paragraph
18 (1) the number of pupils that were housed in facilities to which
19 the school district or county office of education relinquished title
20 as the result of a transfer of a special education program between
21 a school district and a county office of education or special
22 education local plan area, if applicable. For this purpose, the total
23 number of pupils that were housed in the facilities to which title
24 was relinquished shall be determined using the pupil loading
25 formula adopted by the board pursuant to subparagraph (B) of
26 paragraph (2) of subdivision (a) of Section 17071.25. For purposes
27 of this paragraph, title also includes any lease interest with a
28 duration of greater than five years.

29 (c) Subtract the number of pupils pursuant to subdivision (b)
30 from the number of pupils determined pursuant to paragraph (2)
31 of subdivision (a).

32 (d) The calculations required to establish eligibility under this
33 article shall result in a distinction between the number of existing
34 unhoused pupils and the number of projected unhoused pupils.

35 (e) Apply the increase or decrease resulting from the difference
36 between the most recent report made pursuant to Section 42268,
37 and the report used in determining the baseline capacity of the
38 school district pursuant to subdivision (a) of Section 17071.25.

39 (f) For purposes of calculating projected enrollment pursuant
40 to subdivision (a), the board may adopt regulations to ensure that

1 the enrollment calculation of individuals with exceptional needs
2 receiving special education services is adjusted in the enrollment
3 reporting period in which the transfer occurs and three previous
4 school years as a result of a transfer of a special education program
5 between a school district and a county office of education or a
6 special education local plan area. However, the projected
7 enrollment calculation of a county office of education shall only
8 be adjusted if a transfer of title for the special education program
9 facilities has occurred. The regulations, if adopted, shall ensure
10 that if a transfer of title to special education program facilities
11 constructed with state funds occurs within 10 years after initial
12 occupancy of the facility, the receiving school district or school
13 districts shall remit to the state a proportionate share of any
14 financial hardship assistance provided for the project pursuant to
15 Section 17075.10, if applicable.

16 (g) For a school district with an enrollment of 2,500 or less, an
17 adjustment in enrollment projections shall not result in a loss of
18 ongoing eligibility to that school district for a period of three years
19 from the date of the approval of eligibility by the board.

20 SEC. 6. Section 17072.32 of the Education Code is amended
21 to read:

22 17072.32. ~~(a)~~For any project that has received an
23 apportionment pursuant to Section 17072.30, funding shall be
24 released in amounts equal to the amount of the local match upon
25 certification by the school district that the school district has
26 entered into a binding contract ~~for completion of~~ *for professional*
27 *services or for construction, or both, in order to complete the*
28 approved project.

29 ~~(b) This section is operative January 1, 2008.~~

30 SEC. 7. Section 17074.15 of the Education Code is amended
31 to read:

32 17074.15. (a) The board shall release disbursements to school
33 districts with approved applications for modernization, to the extent
34 state funds are available for the state's 80-percent share, and the
35 school district has provided its 20-percent local match. Subject to
36 the availability of funds, the board shall apportion funds to an
37 eligible school district only upon the approval of the project by
38 the Department of General Services pursuant to the Field Act, as
39 defined in Section 17281, including, but not limited to, a project
40 that complies with the Field Act by complying with Section

1 17280.5, and evidence that the certification by the school district
2 that the required 20-percent matching funds from local sources
3 have been expended by the district for the project, or have been
4 deposited in the county fund or will be expended by the district
5 by the time of completion of the project, and evidence that the
6 district has entered into a binding contract for ~~the completion of~~
7 ~~that~~ *professional services or for construction, or both, in order to*
8 *complete the* project. If state funds are insufficient to fund all
9 qualifying school districts, the board shall fund all qualifying
10 school districts in the order in which the application for funding
11 was approved by the board.

12 (b) This section shall apply only to an application filed on or
13 before April 29, 2002, regardless of the source of state bond
14 funding.

15 SEC. 8. Section 17074.16 of the Education Code is amended
16 to read:

17 17074.16. (a) The board shall release disbursements to school
18 districts with approved applications for modernization, to the extent
19 state funds are available for the state's 60-percent share, and the
20 school district has provided its 40-percent local match. Subject to
21 the availability of funds, the board shall apportion funds to an
22 eligible school district only upon the approval of the project by
23 the Department of General Services pursuant to the Field Act, as
24 defined in Section 17281, including, but not limited to, a project
25 that complies with the Field Act by complying with Section
26 17280.5, and evidence that the certification by the school district
27 that the required 40-percent matching funds from local sources
28 have been expended by the district for the project, or have been
29 deposited in the county fund or will be expended by the district
30 by the time of completion of the project, and evidence that the
31 district has entered into a binding contract for ~~the completion of~~
32 ~~that~~ *professional services or for construction, or both, in order to*
33 *complete the* project. If state funds are insufficient to fund all
34 qualifying school districts, the board shall fund all qualifying
35 school districts in the order in which the application for funding
36 was approved by the board.

37 (b) This section shall apply only to an application that was filed
38 after April 29, 2002.

39 SEC. 9. Section 17074.26 of the Education Code is amended
40 to read:

1 17074.26. The board shall adopt regulations to adjust the
2 per-pupil amounts set forth in Section ~~17074.14~~ 17074.10 for
3 modernization projects for school buildings that are 50 years old
4 or older based upon the higher costs associated with modernizing
5 older buildings.

6 SEC. 10. Section 17076.10 of the Education Code is amended
7 to read:

8 17076.10. (a) A school district that has received any funds
9 pursuant to this chapter shall submit a summary report of
10 expenditure of state funds and of district matching funds annually
11 until all state funds and district matching funds are expended, and
12 shall then submit a final report to the board. The board may require
13 an audit of these reports or other district records to ensure that all
14 funds received pursuant to this chapter are expended in accordance
15 with program requirements.

16 (b) If the board finds that a participating school district has made
17 no substantial progress towards increasing its pupil capacity or
18 modernizing its facilities within 18 months of the receipt of any
19 funding pursuant to this chapter, the board shall rescind the
20 apportionment in an amount equal to the unexpended funds.

21 (c) (1) If the board, after the review of expenditures or audit
22 has been conducted pursuant to subdivision (a), determines that a
23 school district failed to expend funds in accordance with this
24 chapter, the department shall notify the school district of the
25 amount that must be repaid to the 1998 State School Facilities
26 Fund, the 2002 State School Facilities Fund, or the 2004 State
27 School Facilities Fund, as the case may be, within 60 days. If the
28 school district fails to make the required payment within 60 days,
29 the department shall notify the Controller and the school district
30 in writing, and the Controller shall deduct an amount equal to the
31 amount received by the school district under this subdivision, from
32 the school district's next principal apportionment or apportionments
33 of state funds to the school district, other than basic aid
34 apportionments required by Section 6 of Article IX of the
35 California Constitution. Any amounts obtained by the Controller
36 shall be deposited into the 1998 State School Facilities Fund, the
37 2002 State School Facilities Fund, or the 2004 State School
38 Facilities Fund, as appropriate.

39 (2) Notwithstanding paragraph (1), if the board determines that
40 repayment of the full liability within 60 days after the board action

1 would constitute a severe financial hardship, as defined by the
2 board, for the school district, the board shall approve a plan of
3 equal annual payments over a period of up to five years. The plan
4 shall include interest on each year's outstanding balance at the rate
5 earned on the state's Pooled Money Investment Account during
6 that year. The Controller shall withhold amounts, other than basic
7 aid apportionments required by Section 6 of Article IX of the
8 California Constitution, pursuant to the plan.

9 (d) If a school district has received an apportionment, but has
10 not met the criteria to have funds released pursuant to Section
11 17072.32 ~~or, 17074.15, or 17074.16~~ within a period established
12 ~~by the board, but not to exceed~~ 18 months, the board shall rescind
13 the apportionment and deny the district's application. *The board*
14 *may, at its discretion, extend the time period in which a school*
15 *district must have met the criteria to have funds released pursuant*
16 *to Section 17072.32, 17074.15, or 17074.16.*

17 SEC. 11. Section 15490 of the Government Code is amended
18 to read:

19 15490. (a) There is in the state government the State Allocation
20 Board, consisting of the Director of Finance, the Director of
21 General Services, a person appointed by Governor, and the
22 Superintendent of Public Instruction. The board shall also include
23 three Members of the Senate appointed by the Senate Committee
24 on Rules, two of whom shall belong to the majority party and one
25 of whom shall belong to the minority party, and three Members
26 of the Assembly appointed by the Speaker of the Assembly, two
27 of whom shall belong to the majority party and one of whom shall
28 belong to the minority party.

29 (b) The members of the board and the Members of the
30 Legislature meeting with the board shall receive no compensation
31 for their services but shall be reimbursed for their actual and
32 necessary expenses incurred in connection with the performance
33 of their duties.

34 (c) The Director of General Services shall provide assistance
35 to the board as the board requires. The board ~~may~~, by a majority
36 vote of all members, *may* do one or more of the following:

37 (1) ~~Appoint an employee to report directly to the board as~~
38 ~~assistant executive officer and an employee as legal counsel, both~~
39 ~~of whom are to report directly to the board.~~

- 1 (2) Fix the salary and other compensation of the assistant
- 2 executive officer *and the legal counsel*.
- 3 (3) Employ additional staff members, and secure office space
- 4 and furnishings, as necessary to support the assistant executive
- 5 officer *and the legal counsel* in the performance of ~~his or her~~ *their*
- 6 duties.